



ANALYSIS

<p>Title.</p> <p>1. Short Title.</p> <p style="text-align: center;"><i>Murder</i></p> <p>2. Punishment of murder. Application of foregoing provisions.</p> <p>3. Restriction on release or discharge of murderers.</p>	<p style="text-align: center;"><i>Expectant Mothers</i></p> <p>4. Sentence of death not to be passed on pregnant woman. Repeal.</p> <p style="text-align: center;"><i>Young Persons</i></p> <p>5. Sentence of death not to be passed on person under eighteen years of age.</p>
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1950, No. 81

AN ACT to Amend the Crimes Act, 1908, by Restoring the Death Penalty for Murder in Certain Cases, and by Making Certain Other Provisions in respect of Capital Punishment. Title.  
 [1st December, 1950]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Capital Punishment Act, 1950, and shall be read together with and deemed part of the Crimes Act, 1908 (hereinafter referred to as the principal Act). Short Title.  
See Reprint of Statutes, Vol. II, p. 182

*Murder*

2. (1) The principal Act, as amended by section two of the Crimes Amendment Act, 1941, is hereby further amended by reviving section one hundred and eighty-seven, as follows:— Punishment of murder.  
1941, No. 10

“ 187. Every one who commits murder shall upon conviction thereof be sentenced to death.”

(2) Section two of the Crimes Amendment Act, 1941, is hereby repealed.

Application of foregoing provisions.

(3) This section shall not apply in respect of offences committed before the passing of this Act.

Restriction on release or discharge of murderers. See Reprint of Statutes, Vol. II, p. 341

3. The Crimes Amendment Act, 1910, as amended by section eleven of the Crimes Amendment Act, 1920, is hereby further amended by inserting, after section twenty, the following section:—

“ 21. Where any person has been convicted of murder, whether before or after the commencement of this section, and he has upon conviction been sentenced to death and the sentence has been commuted to imprisonment for life, or he has upon conviction been sentenced to imprisonment for life, he shall not be released on probation or discharged under this Act until after the approval of the Governor-General in Council has been obtained.”

#### *Expectant Mothers*

Sentence of death not to be passed on pregnant woman.

Cf. Sentence of Death (Expectant Mothers) Act, 1931 (21 & 22 Geo. V, ch. 24) (U.K.)

4. (1) Where a woman convicted of an offence punishable with death is found in accordance with the provisions of this section to be pregnant, the sentence to be passed on her shall be a sentence of imprisonment with hard labour for life, instead of a sentence of death.

(2) Where a woman convicted of an offence punishable with death alleges that she is pregnant, or where the Court before which a woman is so convicted thinks fit so to order, the question whether or not the woman is pregnant shall, before sentence is passed on her, be determined by a jury.

(3) Subject to the provisions of this subsection, the said jury shall be the trial jury—that is to say, the jury to whom she was given in charge to be tried for the offence, and the members of the jury need not be resworn:

Provided that,—

(a) If any member of the trial jury, either before or after the conviction, dies or is discharged by the Court as being through illness incapable of continuing to act or for any other cause, the inquiry as to whether or not the woman is pregnant shall proceed without him; and

(b) Where there is no trial jury, or where a jury have disagreed as to whether or not the woman is pregnant, or have been discharged by the Court without giving a verdict on that question, the jury shall be constituted as if to try whether or not she was fit to plead, and shall be sworn in such manner as the Court may direct.

(4) The question whether or not the woman is pregnant shall be determined by the jury on such evidence as may be laid before them either on the part of the woman or on the part of the Crown, and the jury shall find that the woman is not pregnant unless it is proved affirmatively to their satisfaction that she is pregnant.

(5) Where on proceedings under this section the jury find that the woman in question is not pregnant the woman may appeal under the Criminal Appeal Act, 1945, to the Court of Appeal, and that Court, if satisfied that for any reason the finding should be set aside, shall quash the sentence passed on her and instead thereof pass on her a sentence of imprisonment with hard labour for life. 1945, No. 23

(6) This section is in substitution for section four hundred and twenty-nine of the principal Act, and that section is hereby accordingly repealed. Repeal.

### *Young Persons*

5. (1) Where a person convicted of an offence punishable with death is under the age of eighteen years, the sentence to be passed on him shall be a sentence to detention during His Majesty's pleasure, instead of a sentence of death. Sentence of death not to be passed on person under eighteen years of age.

(2) A person sentenced to detention during His Majesty's pleasure shall be liable to be detained in such place and under such conditions as the Minister of Justice may direct. *Cf.* Children and Young Persons Act, 1933 (23 Geo. V, ch. 12), s. 53 (U.K.)

(3) A person detained pursuant to the directions of the Minister of Justice under this section shall, while so detained, be deemed to be in legal custody.

(4) Any person so detained as aforesaid may, at any time, be discharged by the Minister of Justice on licence. Every such licence shall be in such form and shall contain such conditions as the Minister of Justice may direct, and may at any time be revoked or varied by the Minister.

(5) Where a licence under this section has been revoked the person to whom the licence related shall return to such place as the Minister of Justice may direct, and if he fails to do so may be arrested without warrant and taken to that place.